

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

KEVIN TYRONE RUFFIN,

Petitioner,

vs.

DIRECTOR NEVADA DEPARTMENT
OF CORRECTIONS, *et al.*,

Respondents.

2:07-cv-00721-RLH-PAL

ORDER

This represented habeas matter under 28 U.S.C. § 2254 comes before the Court on petitioner's motion (#59) for additional briefing and oral argument.

Petitioner seeks an opportunity for additional briefing and oral argument regarding the implications of *Cullen v. Pinholster*, 131 S.Ct. 1388 (2011), vis-à-vis adjudication of the merits of Grounds 1, 2 and 6. The Court referenced *Pinholster* in this regard, directly or indirectly, in its recent order addressing exhaustion issues as to these claims. See #57, at 7 n.10, 8 & 15-16.

The Court will allow an opportunity for – an exceedingly quick – supplemental briefing cycle. The supplemental briefing cycle largely will coincide with the current briefing cycle previously set on petitioner's election under *Rose v. Lundy*, 455 U.S. 509, 102 S.Ct. 1198, 71 L.Ed.2d 379 (1982), as to the relief to be requested regarding the unexhausted claims.

However, the Court is not able at this late juncture in this case to schedule an oral argument in this matter. Following upon the disposition of the unexhausted claims, a likely

1 partial dismissal, the Court must move as expeditiously as possible to resolve the merits
2 issues on the numerous claims in this case, including evaluation of petitioner's request for an
3 evidentiary hearing. If the Court were to order an evidentiary hearing on one or more claims,
4 it would need to be able to do so in time to resolve all issues in this case no later than
5 September 30, 2011. The Court simply does not have the time to divert from that effort to
6 prepare for and hold an oral argument. Counsel needs to say what counsel wishes to say
7 about the application of *Pinholster* to the claims in this case in the supplemental briefing.


8 The Court will not set a page limit for the length of the briefing, on the assumption that
9 the short deadlines will facilitate brevity. Counsel should note, however, that the Court does
10 not need extensive – and essentially immaterial – recitations of procedural minutiae such as
11 a recital of the preceding procedural history in the case complete with the specific filing date
12 of sundry filings. If the Court needs to review the procedural history of this case and
13 determine the dates of filings herein, it can do that more efficiently on the electronic docketing
14 system. Moreover, in the prior order, the Court summarized the pertinent state court
15 procedural history and fairly extensively summarized the underlying factual particulars on the
16 three grounds in question, particularly as to Ground 1. Counsel may write against the
17 backdrop of these summaries, subject to whatever correction or amplification is needed. In
18 short, counsel should just “cut to the chase” and present their arguments as to the application
19 of *Pinholster* to the adjudication of the merits of the claims.

20 IT THEREFORE IS ORDERED that petitioner's motion (#59) for additional briefing and
21 oral argument is GRANTED IN PART and DENIED IN PART, as further specified below.

22 IT FURTHER IS ORDERED that petitioner shall have **seven (7) days** from entry of this
23 order within which to file a supplemental brief addressing the application of the *Pinholster*
24 decision to the adjudication of Grounds 1, 2 and 6, that respondents shall have **seven (7)**
25 **days** from the **filing date** of petitioner's brief (with electronic service) to file a supplemental
26 brief in response, and that petitioner shall have **seven (7) days** from the **filing date** of
27 respondents' brief (with electronic service) to file a supplemental brief in reply.

28 IT FURTHER IS ORDERED that the request for oral argument is denied.

DATED: July 6, 2011.



 ROGER L. HUNT
 United States District Judge